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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,572	02/06/2006	Angus Peter Robson	7493P001	4280
8791 7590 09/03/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
CHUKWURAH, NATHANIEL C				
ART UNIT		PAPER NUMBER		
3721				
MAIL DATE		DELIVERY MODE		
09/03/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/532,572

**Applicant(s)**

ROBSON, ANGUS PETER

**Examiner**

NATHANIEL C. CHUKWURAH

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/25/2008 has been entered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 34-36, 38, 41-45, 47-52 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Lange (US 6,003,619).

With regard to claim 34, the patent to Lange discloses a hammer assembly, including a housing (34), a substantially elongated hammer (38, 60) having first and second tool (60) ends capable of extending through the lower opening of the housing, a drive mechanism (46) for reciprocating the hammer, the hammer is capable of being removed from the housing, reversed and replaced in first and second orientation to extend to through the lower end.

With regard to claim 36, Lange's hammer includes at least two protrusions (58) adapted for engagement with the drive mechanism (46), and located on a common hammer (38) face.

With regard to claim 37, Lange's hammer shows in addition to protrusion and a drive mechanism, a loop of chain (52), one dog (54) and a motor (rotary box 11), the dog abuts the protrusion (Fig. 4).

With regard to claim 38, the hammer housing is attached to machine (Fig. 1), the drive mechanism is enclosed within the housing (44).

With regard to claim 41, Lange's hammer is adapted to drop under gravity.

With regard to claim 42, Lange's drive mechanism includes means (dog and chain) for engaging and driving the hammer.

With regard to claim 43, Lange's hammer assembly operates as claimed.

With regard to claim 44, Lange's hammer is cylindrical (Fig.3).

With regard to claim 45, Lange's hammer is considered to be multifaceted.

With regard to claim 47, Lange's hammer is capable of accommodating tool end of varying shaped.

With regard to claim 48, Lange's hammer includes at least two sprockets (48, 50), and at least one dog (54) and a chain (52).

With regard to claim 49, Lange's hammer includes a dog (54) attached to a chain (52) and is adapted to engage the protrusion (58).

With regard to claim 50, Lange's hammer is adapted to be rotated around the at least two sprockets.

With regard to claim 51, Lange's sprockets, dog and chain are aligned substantially parallel to the hammer for the hammer to strike directly to the tool bit.

With regard to claim 52, the sprockets, dog and chain are aligned substantially perpendicular to the hammer as viewed in different orientation.

With regard to claim 56, Lange anticipates the claimed structure as in the limitations and method as claimed.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lange (US 6,003,619).

With regard to claim 35, Lange shows the claimed elements to the degree that it does not show two protrusions on hammer's opposing faces. However, having two protrusions on hammer's opposing faces is considered engineering preference and it would have been obvious to one skilled in art to provide to either provide protrusion one opposing face or opposing faces, since the protrusion on one opposing face or opposing faces will function to lifting the hammer.

6. Claims 39-40, 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lange (US 6,003,619) in view of MacOnochie (US 4,838,363).

With regard to claims 39 and 40, Lange shows the claimed elements to the degree that it does not show cushion fixed near the opening end. MacOnochie reference teaches a resilient gasket (130) considered to be a cushion fixed near the opening end of the housing (110, 112)

capable of engaging a protrusion. In view of the teaching of MacOnochie, it would have been obvious to one skilled in the art at the time of the invention to provide Lange with cushion element in order to dampen or absorb impact vibration.

With regard to claim 53, modified Lange includes a connecting apparatus (a resilient gasket 130 MacOnochie) between the hammer and the hammer housing.

With regard to claim 54, modified Lange includes the connecting apparatus (a resilient gasket 130 MacOnochie) and capable of elastic deformation.

With regard to claim 55, modified Lange resilient gasket (cushion) is deemed detachable because it can be replaced in the case of wear.

7. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lange (US 6,003,619) in view of Thomson (US 1,570,650).

With regard to claim 46, Lange shows the claimed elements to the degree that it does not show non-identical tool ends. Thomson teaches non-identical tool ends for specific task. In view of the teaching of Thomson, it would have been obvious to one skilled in the art at the time of the invention to provide Lange with non-identical tool ends in order to perform specific task.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims 34-56 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

9. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. C. C./  
Examiner, Art Unit 3721

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721  
8/26/2008.